

HOUSE BILL NO. 334

INTRODUCED BY V. SMALL-EASTMAN

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A COUNTY, CITY, OR TOWN TO RECEIVE 25 PERCENT OF THE VIDEO GAMBLING MACHINE GROSS INCOME TAX FOR LAW ENFORCEMENT PURPOSES; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 15-1-121, 17-7-502, AND 23-5-610, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-1-121, MCA, is amended to read:

"15-1-121. Entitlement share payment -- appropriation. (1) The amount calculated pursuant to this subsection is each local government's base entitlement share. The department shall estimate the total amount of revenue that each local government received from the following sources for the fiscal year ending June 30, 2001:

(a) personal property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter 584, Laws of 1999;

(b) vehicle and boat taxes and fees pursuant to:

(i) Title 23, chapter 2, part 5;

(ii) Title 23, chapter 2, part 6;

(iii) Title 23, chapter 2, part 8;

(iv) 61-3-317;

(v) 61-3-321;

(vi) Title 61, chapter 3, part 5, except for 61-3-509(3), as that subsection read prior to the amendment of 61-3-509 in 2001;

(vii) Title 61, chapter 3, part 7;

(viii) 5% of the fees collected under 61-10-122;

(ix) 61-10-130;

(x) 61-10-148; and

(xi) 67-3-205;

1 (c) (i) gaming revenue pursuant to Title 23, chapter 5, part 6, except for the permit fee in 23-5-612(2)(a);
2 and
3 (ii) for counties and incorporated cities or towns, the gaming revenue provided for in subsection (1)(c)(i),
4 minus 25% of the video gambling machine gross income tax provided for in 23-5-610;
5 (d) district court fees pursuant to:
6 (i) 25-1-201, except those fees in 25-1-201(1)(d), (1)(g), and (1)(j);
7 (ii) 25-1-202;
8 (iii) 25-1-1103;
9 (iv) 25-9-506;
10 (v) 25-9-804; and
11 (vi) 27-9-103;
12 (e) certificate of title fees for manufactured homes pursuant to 15-1-116;
13 (f) financial institution taxes pursuant to Title 15, chapter 31, part 7;
14 (g) coal severance taxes allocated for county land planning pursuant to 15-35-108;
15 (h) all beer, liquor, and wine taxes pursuant to:
16 (i) 16-1-404;
17 (ii) 16-1-406; and
18 (iii) 16-1-411;
19 (i) late filing fees pursuant to 61-3-220;
20 (j) title and registration fees pursuant to 61-3-203;
21 (k) veterans' cemetery license plate fees pursuant to 61-3-459;
22 (l) county personalized license plate fees pursuant to 61-3-406;
23 (m) special mobile equipment fees pursuant to 61-3-431;
24 (n) single movement permit fees pursuant to 61-4-310;
25 (o) state aeronautics fees pursuant to 67-3-101; and
26 (p) department of natural resources and conservation payments in lieu of taxes pursuant to Title 77,
27 chapter 1, part 5.
28 (2) (a) From the amounts estimated in subsection (1) for each county government, the department shall
29 deduct fiscal year 2001 county government expenditures for district courts, less reimbursements for district court
30 expenses, and fiscal year 2001 county government expenditures for public welfare programs to be assumed by

1 the state in fiscal year 2002.

2 (b) The amount estimated pursuant to subsections (1) and (2)(a) is each local government's base year
3 component. The sum of all local governments' base year components is the base year entitlement share pool.
4 For the purpose of calculating the sum of all local governments' base year components, the base year
5 component for a local government may not be less than zero.

6 (3) (a) ~~Beginning with fiscal year 2002 and in each succeeding fiscal year, the~~ The base year entitlement
7 share pool must be increased annually by a growth rate as provided for in this subsection (3). The amount
8 determined through the application of annual growth rates is the entitlement share pool for each fiscal year. ~~For~~
9 ~~fiscal year 2002, the growth rate is 3%. For fiscal year 2003, the growth rate is 3% for incorporated cities and~~
10 ~~towns, 1.61% for counties, and 2.3% for consolidated local governments. Beginning with calendar year 2002,~~
11 ~~by~~ By October 1 of each even-numbered year, the department shall calculate the growth rate of the entitlement
12 share pool for each year of the next biennium in the following manner:

13 ~~(i) Before applying the growth rate for fiscal year 2004 to determine the fiscal year 2004 entitlement~~
14 ~~share pool, the department shall add to the fiscal year 2003 entitlement share pool the fiscal year 2003 amount~~
15 ~~of revenue actually distributed to the county from the 25-cent marriage license fee in 50-15-301 and the~~
16 ~~probation and parole fee in 46-23-1031(2)(b).~~

17 ~~(ii)~~ (i) The department shall calculate the average annual growth rate of the Montana gross state product,
18 as published by the bureau of economic analysis of the United States department of commerce, for the following
19 periods:

20 (A) the last 4 calendar years for which the information has been published; and

21 (B) the 4 calendar years beginning with the year before the first year in the period referred to in
22 subsection ~~(3)(a)(ii)(A)~~ (3)(a)(i)(A).

23 ~~(iii)~~ (ii) The department shall calculate the average annual growth rate of Montana personal income, as
24 published by the bureau of economic analysis of the United States department of commerce, for the following
25 periods:

26 (A) the last 4 calendar years for which the information has been published; and

27 (B) the 4 calendar years beginning with the year before the first year in the period referred to in
28 subsection ~~(3)(a)(iii)(A)~~ (3)(a)(ii)(A).

29 (b) (i) ~~For fiscal year 2004 and subsequent fiscal years, the~~ The entitlement share pool growth rate for
30 the first year of the biennium must be the following percentage of the average of the growth rates calculated in

subsections ~~(3)(a)(ii)(B)~~ (3)(a)(i)(B) and ~~(3)(a)(iii)(B)~~ (3)(a)(ii)(B):

(A) for counties, 54%;

(B) for consolidated local governments, 62%; and

(C) for incorporated cities and towns, 70%.

(ii) The entitlement share pool growth rate for the second year of the biennium must be the following percentage of the average of the growth rates calculated in subsections ~~(3)(a)(ii)(A)~~ (3)(a)(i)(A) and ~~(3)(a)(iii)(A)~~ (3)(a)(ii)(A):

(A) for counties, 54%;

(B) for consolidated local governments, 62%; and

(C) for incorporated cities and towns, 70%.

(4) As used in this section, "local government" means a county, a consolidated local government, an incorporated city, and an incorporated town. A local government does not include a tax increment financing district provided for in subsection (6). For purposes of calculating the base year component for a county or consolidated local government, the department shall include the revenue listed in subsection (1) for all special districts within the county or consolidated local government. The county or consolidated local government is responsible for making an allocation from the county's or consolidated local government's share of the entitlement share pool to each special district within the county or consolidated local government in a manner that reasonably reflects each special district's loss of revenue sources listed in subsection (1).

(5) (a) The entitlement share pools calculated in this section and the block grants provided for in subsection (6) are statutorily appropriated, as provided in 17-7-502, from the general fund to the department for distribution to local governments. Each local government is entitled to a pro rata share of each year's entitlement share pool based on the local government's base component in relation to the base year entitlement share pool. The distributions must be made on a quarterly basis ~~beginning September 15, 2001.~~

(b) (i) ~~For fiscal year 2002, the growth amount is the difference between the fiscal year 2002 entitlement share pool and the base year entitlement share pool. For fiscal year 2002, a county may have a negative base year component. For fiscal year 2003 and each succeeding fiscal year, the~~ The growth amount is the difference between the entitlement share pool in the current fiscal year and the entitlement share pool in the previous fiscal year. For the purposes of subsection (5)(b)(ii)(A), a county with a negative base year component has a base year component of zero. The growth factor in the entitlement share must be calculated separately for:

(A) counties;

1 (B) consolidated local governments; and

2 (C) incorporated cities and towns.

3 (ii) In each fiscal year, the growth amount for counties must be allocated as follows:

4 (A) 50% of the growth amount must be allocated based upon each county's percentage of the base year
5 entitlement share pool for all counties; and

6 (B) 50% of the growth amount must be allocated based upon the percentage that each county's
7 population bears to the state population not residing within consolidated local governments as determined by
8 the latest interim year population estimates from the Montana department of commerce as supplied by the
9 United States bureau of the census.

10 (iii) In each fiscal year, the growth amount for consolidated local governments must be allocated as
11 follows:

12 (A) 50% of the growth amount must be allocated based upon each consolidated local government's
13 percentage of the base year entitlement share pool for all consolidated local governments; and

14 (B) 50% of the growth amount must be allocated based upon the percentage that each consolidated
15 local government's population bears to the state's total population residing within consolidated local governments
16 as determined by the latest interim year population estimates from the Montana department of commerce as
17 supplied by the United States bureau of the census.

18 (iv) In each fiscal year, the growth amount for incorporated cities and towns must be allocated as follows:

19 (A) 50% of the growth amount must be allocated based upon each incorporated city's or town's
20 percentage of the base year entitlement share pool for all incorporated cities and towns; and

21 (B) 50% of the growth amount must be allocated based upon the percentage that each city's or town's
22 population bears to the state's total population residing within incorporated cities and towns as determined by
23 the latest interim year population estimates from the Montana department of commerce as supplied by the
24 United States bureau of the census.

25 (v) In each fiscal year, the amount of the entitlement share pool not represented by the growth amount
26 is distributed to each local government in the same manner as the entitlement share pool was distributed in the
27 prior fiscal year.

28 ~~(vi) For fiscal year 2002, an amount equal to the district court costs identified in subsection (2) must be~~
29 ~~added to each county government's distribution from the entitlement share pool.~~

30 ~~—— (vii) For fiscal year 2002, an amount equal to the district court fees identified in subsection (1)(d) must~~

~~be subtracted from each county government's distribution from the entitlement share pool.~~

(6) (a) If a tax increment financing district was not in existence during the fiscal year ending June 30, 2000, then the tax increment financing district is not entitled to any block grant. If a tax increment financing district referred to in subsection (6)(b) terminates, then the block grant provided for in subsection (6)(b) terminates.

(b) One-half of the payments provided for in this subsection (6)(b) must be made by November 30 and the other half by May 31 of each year. Subject to subsection (6)(a), the entitlement share for tax increment financing districts is as follows:

Cascade	Great Falls - downtown	\$468,966
Deer Lodge	TIF District 1	3,148
Deer Lodge	TIF District 2	3,126
Flathead	Kalispell - District 1	758,359
Flathead	Kalispell - District 2	5,153
Flathead	Kalispell - District 3	41,368
Flathead	Whitefish District	164,660
Gallatin	Bozeman - downtown	34,620
Lewis and Clark	Helena - #2	731,614
Missoula	Missoula - 1-1B & 1-1C	1,100,507
Missoula	Missoula - 4-1C	33,343
Silver Bow	Butte - uptown	283,801
Yellowstone	Billings	436,815

~~(c) The entitlement share for industrial tax increment financing districts is as follows:~~

~~—— (i) for fiscal years 2002 and 2003:~~

Missoula County	Airport Industrial	\$4,812
Silver Bow	Ramsay Industrial	597,594;

~~—— (ii) for fiscal years 2004 and 2005:~~

Missoula County	Airport Industrial	\$2,406
Silver Bow	Ramsay Industrial	298,797; and

~~—— (iii) \$0 for all succeeding fiscal years.~~

~~(d) The entitlement share for industrial tax increment financing districts referred to in subsection (6)(c)~~

1 may not be used to pay debt service on tax increment bonds to the extent that the bonds are secured by a
2 guaranty, a letter of credit, or a similar arrangement provided by or on behalf of an owner of property within the
3 tax increment financing industrial district.

4 ~~—— (e) One-half of the payments provided for in subsection (6)(c) must be made by July 30, and the other~~
5 ~~half must be made in December of each year.~~

6 (7) The estimated base year entitlement share pool and any subsequent entitlement share pool for local
7 governments do not include revenue received from countywide transportation block grants or from countywide
8 retirement block grants.

9 ~~(8) The estimates for the base year entitlement share pool in subsection (1) must be calculated as if~~
10 ~~the fees in Chapter 515, Laws of 1999, were in effect for all of fiscal year 2001.~~

11 ~~(9)~~(8) (a) If revenue that is included in the sources listed in subsections (1)(b) through (1)(p) is
12 significantly reduced, except through legislative action, the department shall deduct the amount of revenue loss
13 from the entitlement share pool beginning in the succeeding fiscal year and the department shall work with local
14 governments to propose legislation to adjust the entitlement share pool to reflect an allocation of the loss of
15 revenue.

16 (b) For the purposes of subsection ~~(9)(a)~~ (8)(a), a significant reduction is a loss that causes the amount
17 of revenue received in the current year to be less than 95% of the amount of revenue received in the base year.

18 ~~(10)~~(9) A three-fifths vote of each house is required to reduce the amount of the entitlement share
19 calculated pursuant to subsections (1) through (3).

20 ~~(11)~~(10) When there has been an underpayment of a local government's share of the entitlement share
21 pool, the department shall distribute the difference between the underpayment and the correct amount of the
22 entitlement share. When there has been an overpayment of a local government's entitlement share, the local
23 government shall remit the overpaid amount to the department.

24 ~~(12)~~(11) A local government may appeal the department's estimation of the base year component, the
25 entitlement share pool growth rate, or a local government's allocation of the entitlement share pool, according
26 to the uniform dispute review procedure in 15-1-211.

27 ~~(13)~~(12) A payment required pursuant to this section may not be offset by a debt owed to a state agency
28 by a local government in accordance with Title 17, chapter 4, part 1."

29
30 **Section 2.** Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory

appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-15-151; 2-17-105; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706; 15-35-108; 15-36-332; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-11-404; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 2 and 5, Ch. 481, L. 2003, the inclusion of 90-6-710 terminates June 30, 2005; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; and pursuant to sec. 135, Ch. 114, L. 2003, the inclusion of 2-15-151 terminates June 30, 2005.)"

1
2 **Section 3.** Section 23-5-610, MCA, is amended to read:

3 **"23-5-610. (Temporary) Video gambling machine gross income tax -- credit -- records --**
4 **distribution -- quarterly statement and payment.** (1) A licensed machine owner shall pay to the department
5 a video gambling machine tax of 15% of the gross income from each video gambling machine issued a permit
6 under this part. A licensed machine owner may deduct from the gross income amounts equal to amounts stolen
7 from machines if the amounts stolen are not repaid by insurance or under a court order, if a law enforcement
8 agency investigated the theft, and if the theft is the result of either unauthorized entry and physical removal of
9 the money from the machines or of machine tampering and the amounts stolen are documented.

10 (2) (a) A licensed machine owner is entitled to a tax credit for each video gambling machine for which
11 a permit has been issued under this part if:

12 (i) the permit was active for the video gambling machine prior to the available connection date;

13 (ii) the department determines that the video gambling machine is incapable, in the form in which it was
14 approved by the department, of communicating with the automated accounting and reporting system authorized
15 by 23-5-637; and

16 (iii) the licensed machine owner participates in the automated accounting and reporting system and
17 incurs actual hardware or software costs prior to January 1, 2005, for conversion of the video gambling machine
18 to make it compatible with the automated system.

19 (b) The amount of the tax credit allowed under subsection (2)(a) is \$250 for each video gambling
20 machine or the actual hardware and software cost necessary for conversion of the video gambling machine to
21 the automated accounting and reporting system, whichever is less.

22 (3) If a tax credit is claimed under subsection (2)(a), the credit is deducted from the tax due for the
23 quarter or quarters that begin after the video gambling machine for which the tax credit is claimed is connected
24 to the automated accounting and reporting system authorized by 23-5-637.

25 (4) A licensed machine owner shall keep a record of the gross income from each video gambling
26 machine issued a permit under this part in the form the department requires. The records must at all times during
27 the business hours of the licensee be subject to inspection by the department.

28 (5) (a) For each video gambling machine issued a permit under this part but not connected to the
29 department's automated accounting and reporting system, a licensed machine owner shall, within 15 days after
30 the end of each quarter and in the manner prescribed by the department, complete and deliver to the department

1 a statement showing the total gross income, together with the total amount due the state as video gambling
2 machine gross income tax for the preceding quarter. The statement must contain other relevant information that
3 the department requires.

4 (b) For each video gambling machine issued a permit under this part that is connected to the
5 department's automated accounting and reporting system, the department shall, within 5 working days after the
6 end of each quarter, complete and deliver to the licensed machine owner (with a copy sent to the licensed
7 operator, if different from the licensed machine owner, on whose premises the machine is placed) a statement
8 showing the total gross income from the video gambling machine, together with the total amount due the state
9 as video gambling machine gross income tax for the preceding quarter. The licensed machine owner shall remit
10 the total amount due the state under this subsection within 25 days after the end of each quarter.

11 (6) (a) Except as provided in subsection (7), the department shall, in accordance with the provisions
12 of 15-1-501, forward:

13 (i) 75% of the tax collected under subsection (5) to the general fund; and

14 (ii) 25% of the tax collected under subsection (5) to the treasurer of the county or the clerk, finance
15 officer, or treasurer of the city or town in which the licensed machine is located for deposit in the county or
16 municipal treasury to be used for law enforcement purposes only.

17 (b) A county is not entitled to proceeds from taxes on income from video gambling machines located
18 in incorporated cities and towns.

19 (c) The 25% portion of the tax collected under subsection (5) is statutorily appropriated, as provided in
20 17-7-502, to the department for distribution to the county, city, or town.

21 (7) Receipts from the taxes collected under this section are pledged and dedicated to guarantee
22 repayment of loans participated in under 23-5-638 in an amount sufficient to meet the prepayment obligation
23 for the fiscal year during which the loans are made. The amount of taxes pledged by this subsection is the dollar
24 amount of loan participation under 23-5-638 and must be allocated to a separate account in the short-term
25 investment pool. The board of investments is not entitled to use the proceeds from taxes collected under this
26 section to repay a loan made under 23-5-638 unless the board certifies that all other commercially available
27 means of collection on the loan have been exhausted. (Terminates December 31, 2005--sec. 10, Ch. 424, L.
28 1999.)

29 **23-5-610. (Effective January 1, 2006) Video gambling machine gross income tax -- credit --**
30 **records -- distribution -- quarterly statement and payment.** (1) A licensed machine owner shall pay to the

1 department a video gambling machine tax of 15% of the gross income from each video gambling machine
2 issued a permit under this part. A licensed machine owner may deduct from the gross income amounts equal
3 to amounts stolen from machines if the amounts stolen are not repaid by insurance or under a court order, if a
4 law enforcement agency investigated the theft, and if the theft is the result of either unauthorized entry and
5 physical removal of the money from the machines or of machine tampering and the amounts stolen are
6 documented.

7 (2) (a) A licensed machine owner is entitled to a tax credit for each video gambling machine for which
8 a permit has been issued under this part if:

9 (i) the permit was active for the video gambling machine prior to the available connection date;

10 (ii) the department determines that the video gambling machine is incapable, in the form in which it was
11 approved by the department, of communicating with the automated accounting and reporting system authorized
12 by 23-5-637; and

13 (iii) the licensed machine owner participates in the automated accounting and reporting system and
14 incurs actual hardware or software costs prior to January 1, 2005, for conversion of the video gambling machine
15 to make it compatible with the automated system.

16 (b) The amount of the tax credit allowed under subsection (2)(a) is \$250 for each video gambling
17 machine or the actual hardware and software cost necessary for conversion of the video gambling machine to
18 the automated accounting and reporting system, whichever is less.

19 (3) If a tax credit is claimed under subsection (2)(a), the credit is deducted from the tax due for the
20 quarter or quarters that begin after the video gambling machine for which the tax credit is claimed is connected
21 to the automated accounting and reporting system authorized by 23-5-637.

22 (4) A licensed machine owner shall keep a record of the gross income from each video gambling
23 machine issued a permit under this part in the form the department requires. The records must at all times during
24 the business hours of the licensee be subject to inspection by the department.

25 (5) (a) For each video gambling machine issued a permit under this part but not connected to the
26 department's automated accounting and reporting system, a licensed machine owner shall, within 15 days after
27 the end of each quarter and in the manner prescribed by the department, complete and deliver to the department
28 a statement showing the total gross income, together with the total amount due the state as video gambling
29 machine gross income tax for the preceding quarter. The statement must contain other relevant information that
30 the department requires.

(b) For each video gambling machine issued a permit under this part that is connected to the department's automated accounting and reporting system, the department shall, within 5 working days after the end of each quarter, complete and deliver to the licensed machine owner (with a copy sent to the licensed operator, if different from the licensed machine owner, on whose premises the machine is placed) a statement showing the total gross income from the video gambling machine, together with the total amount due the state as video gambling machine gross income tax for the preceding quarter. The licensed machine owner shall remit the total amount due the state under this subsection within 25 days after the end of each quarter.

(6) (a) The department shall, in accordance with the provisions of 15-1-501, forward:

(i) 75% of the tax collected under subsection (5) to the general fund; and

(ii) 25% of the tax collected under subsection (5) to the treasurer of the county or the clerk, finance officer, or treasurer of the city or town in which the licensed machine is located for deposit in the county or municipal treasury to be used for law enforcement purposes only.

(b) A county is not entitled to proceeds from taxes on income from video gambling machines located in incorporated cities or towns.

(c) The 25% portion of the tax collected under subsection (5) is statutorily appropriated, as provided in 17-7-502, to the department for distribution to the county, city, or town."

NEW SECTION. Section 4. Effective date. [This act] is effective July 1, 2005.

- END -